

JOHNSON - Appln. No. 08/389,399

canal-- lie in a single plane. This makes applicant's device, as now structurally defined, capable of functioning in a manner the Davis device cannot.

As pointed out in the remarks accompanying applicant's April 1, 1996 Amendment, the intramedullary canal of a femur is not cylindrical. For part of its length the canal has a wider dimension, medial to lateral, than the anterior to posterior dimension. At about 6 inches from its proximal end, the shape of the canal changes such that the medial-lateral dimension is narrower than the anterior-posterior dimension.

In the Davis patent, the reamer disclosed is one which has outwardly extending cutting tips at its end which lie in multiple planes (see Fig. 2). These projections could halt the entry of Davis' device into the proximal end of intramedullary canal at the first location where either of the two opposing pair of cutting tips engages the anterior-posterior walls of the canal. In such a case, Davis' device could not be further advanced without removal of a portion of the walls. On the other hand, if applicant's device is oriented such that its single pair of opposing projections stop advancement of the device within the proximal end of the canal by engaging the narrowly spaced anterior/posterior wall portions, the instrument can be rotated 90° and advanced further. Depending on the span of the projections, the advance can continue until the projections

JOHNSON - Appln. No. 08/389,399

either engage the wider medial/lateral portion of the canal's proximal end or until they engage the medial/lateral portion of the wall lying more than about 6 inches from the canal's proximal end.

The ability to advance the device within the intramedullary canal, as just described, is possible because of applicant's use of projections which lie in a single plane. The multiple plane projections of Davis do not permit such advancement. Consequently, applicant's now-claimed device is neither disclosed, nor suggested, by Davis.

Dependent Claim 3 continues to be rejected under 35 USC 103 as being unpatentable over Davis in view of Patent 5,122,134 - Borzone et al. The latter is relied on as teaching the use of projecting fins which are semi-elliptical.

As in the case of the Davis patent, Borzone et al. employ projections extending outwardly from the distal end of the instrument in multiple planes. Consequently, the deficiencies detailed above with respect to the Davis patent are equally applicable to Borzone et al. Since Claim 3 depends on Claim 1, the obviousness rejection has been overcome inasmuch as the Davis and Borzone et al. patents cannot properly be combined so as to result in the structure now claimed.

JOHNSON - Appln. No. 08/389,399

In light of the foregoing amendments and remarks, it is urged that the application now is in condition for allowance. Accordingly, such action is solicited.

Respectfully submitted,

CUSHMAN DARBY & CUSHMAN
Intellectual Property Group of
PILLSBURY MADISON & SUTRO LLP

By: _____

Kevin E. Joyce
Reg. No. 20,058
Tel. (202) 861-3050
Fax (202) 822-0944

KEJ:kpc

Ninth Floor
1100 New York Avenue, N.W.
Washington, D.C. 20005-3918
Tel. (202) 861-3000

Signature
Paper